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**TO:** Medicare Advantage (MA) Organizations and Prescription Drug Plan (PDP) Sponsors (excluding PACE, Cost, and Employer Group/800 series only contracts)

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**DATE:** June 15, 2011

**SUBJECT:** Contract Year 2012 Translated Marketing Materials Requirements and Methodology

### Background

In the final rule entitled *Medicare Program; Changes to the Medicare Advantage and the Medicare Prescription Drug Benefit Programs for Contract Year 2012 and Other Changes* (published April 15, 2011), CMS codified a new standard for translating marketing materials.<sup>1</sup> For contract year (CY) 2012 marketing materials, Medicare Part C and Part D sponsors (plan sponsors), “must translate marketing materials into any non-English language that is the primary language of at least 5 percent of the individuals in a plan benefit package (PBP) service area.”<sup>2</sup> Pursuant to the Medicare Marketing Guidelines, plan sponsors that have service areas which meet the 5% threshold must provide the translated marketing materials listed in Table 1 on their websites and in hard-copy upon beneficiary request.<sup>3</sup> Plan sponsors may, but are not required to, translate other types of materials and/or translate documents into languages that do not meet the 5% threshold.

### CMS Translations of Model Marketing Materials

As discussed in the preamble to the final rule, CMS will translate specific 2012 model marketing materials.<sup>4</sup> This alleviates some of the translation burden on plan sponsors and will provide consistency among translated materials. The specific translated materials, languages, and anticipated dates of availability are listed in Table 1. Please be aware that CMS anticipates being

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<sup>1</sup> 76 Fed. Reg. 21569, 21577 (April 15, 2011) (to be codified at 42 C.F.R. § § 422.2264(e), 423.2264(e)).

<sup>2</sup> *Id.*

<sup>3</sup> Prescription Drug Benefit Manual, Chapter 2, Medicare Marketing Guidelines and Managed Care Manual, Chapter 3, Medicare Marketing Guidelines, 30.8 (May 17, 2011).

<sup>4</sup> 76 Fed. Reg. 21513 (April 15, 2011).

able to translate additional 2012 model materials, and we will inform plan sponsors shortly about our ability to provide these additional translations, which are indicated in Table 1 by the acronym for to be announced (TBA). For CY2013, CMS aims to translate all of the models listed in Table 1 into both Spanish and Chinese.

**Table 1: 2012 Marketing Material Translations**

<b>2012 Required Translated Marketing Material</b>	<b>Version</b>	<b>CMS Spanish translation of model available</b>	<b>CMS Chinese translation of model available</b>
<b>ANOC/EOC</b>	MA-PD (HMO)	08/05/2011	08/05/2011
	PDP	08/05/2011	NA
	PFFS	TBA	Not produced
	PPO	TBA	Not produced
	MA-only	Not produced	Not produced
<b>Enrollment forms</b>	MA & MA-PD	08/23/2011	08/23/2011
	PFFS	08/23/2011	08/23/2011
	PDP	08/23/2011	NA
<b>Explanation of Benefits</b>	PDP	09/10/2011	NA
<b>Formulary</b>	Comprehensive	TBA	TBA
	Abridged	TBA	Not produced
<b>Pharmacy Directory</b>	Part D	TBA	Not produced
<b>Provider Directory</b>	Part C	TBA	Not produced
<b>Transition Letter</b>	Part D	TBA	Not produced
<b>Enrollment Kit</b> (contains items below) <i>These materials are all non-model, and CMS will <u>not</u> be producing translations.</i> <ol style="list-style-type: none"> <li>1. Cover letter</li> <li>2. Enrollment instructions</li> <li>3. Notice that benefits may change year to year</li> <li>4. Grievance, coverage determination, and appeals process information</li> <li>5. Notice plan may not be available next year</li> <li>6. Plan Ratings information</li> <li>7. Summary of Benefits</li> </ol>			

Table 1 Key

Not produced – CMS will not translate this model material for the 2012 contract year.  
 NA – This language translation is not required because none of the 2012 PDPs met the 5% threshold for Chinese.  
 TBA – CMS will announce shortly whether we will be able to provide translations of this material.

## Update of Material Language Lookup Module Data

To aid plan sponsors in determining for which languages they need to produce marketing materials, CMS recently updated the Health Plan Management System (HPMS) Material Language Lookup module with language translation data for each 2012 plan benefit package (PBP). CMS' contractor, Fu and Associates (Fu), determined which 2012 PBPs needed to provide translated materials by using the U.S. Census Bureau's American Community Survey (ACS) data. Appendix A contains the step-by-step methodology Fu used to identify the percentage of non-English speakers in each PBP's service area. Please be aware that the data in the Material Language Lookup module is based upon the service area data CMS displayed in HPMS for a PBP as of May 6, 2011. If changes to your plan's service area were reflected in HPMS after May 6, 2011, then your organization cannot rely on the data in the Material Language Lookup module and must conduct its own analysis using the methodology in Appendix A. CMS will not update the Material Language Lookup module with more recent 2012 service area data.

Plan sponsors should visit the Material Language Lookup module and review the data for each 2012 contract and PBP to determine whether they need to translate marketing materials and upload the requisite translated materials into HPMS consistent with the Medicare Marketing Guidelines.<sup>5</sup> With the exception of PBPs that include Puerto Rico in their service area, only those PBPs listed in the module are required to produce translated materials. "NA" indicates that a PBP does not need to provide translated materials. Any plan operating in Puerto Rico must provide materials in Spanish. If you cannot find your organization's data by contract ID, try using the multi-contract entity (MCE) ID associated with the contract.

To access the HPMS Material Language Lookup module, please follow this path: HPMS Home Page > Monitoring > Marketing Review > Material Language Lookup > Select a contract ID or MCE number. The Material Language Lookup results display the contract ID, PBP (plan) ID, and non-English language(s) needed for marketing materials. PACE, Cost, Employer group contracts (i.e., "E" contracts) and employer group PBPs (i.e., 800 series) are not included in the Material Language Lookup module.

### Translated Materials Monitoring

CMS will be monitoring whether 2012 PBPs that meet the 5% threshold provide translated materials on their websites during the annual enrollment period (AEP) and whether plan sponsors have uploaded translated marketing materials into HPMS.

If you have any questions about this memo, please contact Jennifer Shapiro, Director, Division of Benefit Purchasing and Monitoring at [Jennifer.Shapiro@cms.hhs.gov](mailto:Jennifer.Shapiro@cms.hhs.gov) or (410) 786-7407.

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<sup>5</sup> Prescription Drug Benefit Manual, Chapter 2, Medicare Marketing Guidelines and Managed Care Manual, Chapter 3, Medicare Marketing Guidelines, 90.11 (May 17, 2011).

## **Appendix A**

### **Methodology to Identify Plan Benefit Packages (PBPs) With Limited-English-Proficient (LEP) Populations**

The purpose of this document is to help Medicare Part C and D plan sponsors verify the language use and translation requirements for each plan benefit package (PBP) service area. Plan sponsors must translate specific marketing materials<sup>6</sup> into any language that is the primary language of at least 5% of the individuals in a PBP service area. These steps assume that you will be downloading data and working with them in a program of your choice (Excel, SPSS, STATA, SAS, etc.). Specific instructions for using the programs are not given.

#### **Step 1: Service Areas**

- A. Obtain plan's 2012 service area data from Health Plan Management System. If your service area covers multiple counties, rather than states, you will be calculating percentages at the county level.
- B. If your service area covers a partial county, treat it as though it covered the whole county.

#### **Step 2: Determine Percentage of LEP Population in Each State or County**

For this step, you will need to download data from one or more of the following three U.S. Census Bureau's American Community Survey datasets:

- A. American Community Survey (ACS) 2009 1-year estimates,
- B. American Community Survey (ACS) 2007-2009 3-year estimates, and/or
- C. American Community Survey (ACS) 2005-2009 5-year estimates.

All of these datasets are available at:

[http://factfinder.census.gov/servlet/DatasetMainPageServlet?\\_program=ACS&\\_submenuId=&\\_lang=en&\\_ts=](http://factfinder.census.gov/servlet/DatasetMainPageServlet?_program=ACS&_submenuId=&_lang=en&_ts=)

The ACS surveys are conducted on an ongoing basis and sent to roughly 250,000 people per month. ACS surveys represent more current information than the Decennial Census, though the most current survey (the 1-year estimates) is only available for counties with populations greater than 65,000; the 3-year estimate is only available for counties with populations greater than 20,000. The 5-year estimate covers all counties.

#### **Step 2.1: Obtaining Data**

To obtain the data needed to determine statistics for the populations of language speakers in your service area follow these steps. If your plan's service area is at the state level, you will only need to use the 2009 1-Year ACS dataset. If your plan's service area is at the county level, you may also need to use the 2007-2009 3-Year ACS dataset, and/or the 2005-2009 5-Year ACS dataset. (Later in this document we address, in detail, whether you will need these additional data sources, and how to obtain them.)

- A. Go to [www.census.gov](http://www.census.gov) (the U.S. Census website).

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<sup>6</sup> See Table 1 in the main body of this memo.

- B. Click on “American Fact Finder,” along the left side of the website.
- C. On the right half of the website, click on the link for the Legacy American Fact Finder.
- D. On the left side of the website, click “Download Center.”
- E. Under “American Community Survey,” click “2009 American Community Survey 1-Year Estimates.”
- F. Select the geographies that match your service area; either “All States” or “All Counties.” Under “Select a Download Method,” the option “Selected Detailed Tables” should be pre-selected. If it is not, select it.
- G. Click “Go.”
- H. This will take you to the list of variables on the “Select Tables” screen. In the “Show all tables” tab, scroll down and select **C16001: Language Spoken at Home for the Population 5+ Years**, and click “Add”; then click “Next.”
- I. This will take you to a page called “Download Center.” Click “Start Download.”
- J. Save the file and unzip it. The files are pipe-delimited .txt files. The pipe is this character: | Convert the file to a usable form with your chosen program (Excel, etc.). There are 3 files: one called Readme, one called dc\_acs\_2009\_1yr\_g00\_\_data1 and one called dc\_acs\_2009\_1yr\_g00\_\_geo. The Readme lists the variables in the set. The one called **dc\_acs\_2009\_1yr\_g00\_\_data1** is the one that contains the data you will use. The last one contains a list of the geographies in the set.
- K. Everything you need to calculate LEP percentage is in the file **dc\_acs\_2009\_1yr\_g00\_\_data1**. The file contains the following information for states or counties. Below are the names of the columns you will need to use to calculate the LEP population. (Note: Every language variable has a Margin of Error (MOE) estimate after it. You can ignore these.)
  1. Geography
  2. Universe: POPULATION 5 YEARS AND OVER: Total (Estimate)
  3. Universe: POPULATION 5 YEARS AND OVER: Spanish or Spanish Creole (Estimate)
  4. Universe: POPULATION 5 YEARS AND OVER: French (including Patois, Creole, Cajun) (Estimate)
  5. Universe: POPULATION 5 YEARS AND OVER: German or other West Germanic languages (Estimate)
  6. Universe: POPULATION 5 YEARS AND OVER: Korean (Estimate)
  7. Universe: POPULATION 5 YEARS AND OVER: Chinese (Estimate)
  8. Universe: POPULATION 5 YEARS AND OVER: Vietnamese (Estimate)
  9. Universe: POPULATION 5 YEARS AND OVER: Tagalog (Estimate)
- L. **If there are any counties in your plan’s service area that were not in the 1-year ACS estimate dataset, called dc\_acs\_2009\_1yr\_g00\_\_data1, then repeat the above steps, with the following exception: Instead of clicking on the 2009 American Community**

Survey 1-Year Estimates in Step 2.1.E., click on the **2007-2009 American Community Survey 3-Year Estimates**. Then proceed with the rest of the steps above.

- M. **If there are any counties in your plan’s service area that were not in the 1-year ACS estimate OR the 3-year ACS estimate**, then you will need to use data from the **2005-2009 5-year ACS estimate** to obtain data for the missing counties.

### Step 2.1B: Obtaining Data

To obtain the data needed to determine statistics based on the ability to speak English at home follow these steps.

- A. Go to [www.census.gov](http://www.census.gov) (the U.S. Census website).
- B. Click on “American Fact Finder,” along the left side of the website.
- C. On the right half of the website, click on the link for the Legacy American Fact Finder.
- D. On the left side of the website, click “Download Center.”
- E. Under “American Community Survey,” click “2009 American Community Survey 1-Year Estimates.”
- F. Select the geographies that match your service area; either “All States” or “All Counties.” Under “Select a Download Method,” the option “Selected Detailed Tables” should be pre-selected. If it is not, select it.
- G. Click “Go.”
- H. This will take you to the list of variables on the “Select Tables” screen. In the “Show all tables” tab, scroll down and select **B16001: Language Spoken at Home by Ability to Speak English for the Population 5+ Years**, and click “Add”; then click “Next.”
- I. This will take you to a page called “Download Center.” Click “Start Download.”
- J. Save the file and unzip it. The files are pipe-delimited .txt files. The pipe is this character: | Convert the file to a usable form with your chosen program (Excel, etc.). There are 3 files: one called Readme, one called `dc_acs_2009_1yr_g00__data1` and one called `dc_acs_2009_1yr_g00__geo`. The Readme lists the variables in the set. The one called **`dc_acs_2009_1yr_g00__data1`** is the one that contains the data you will use. The last one contains a list of the geographies in the set.
- K. Everything you need to calculate LEP percentage is in the file **`dc_acs_2009_1yr_g00__data1`**. The file contains the following information for states or counties. Below are the names of the columns you will need to use to calculate the LEP population. (Note: Every language variable has a Margin of Error (MOE) estimate after it. You can ignore these.)
  1. Geography
  2. Universe: POPULATION 5 YEARS AND OVER: Total (Estimate)
  3. Universe: POPULATION 5 YEARS AND OVER: Spanish or Spanish Creole; Speak English less than very well (Estimate)

4. Universe: POPULATION 5 YEARS AND OVER: French (including Patois, Creole, Cajun); Speak English less than very well (Estimate)
  5. Universe: POPULATION 5 YEARS AND OVER: German or other West Germanic languages; Speak English less than very well (Estimate)
  6. Universe: POPULATION 5 YEARS AND OVER: Korean; Speak English less than very well (Estimate)
  7. Universe: POPULATION 5 YEARS AND OVER: Chinese; Speak English less than very well (Estimate)
  8. Universe: POPULATION 5 YEARS AND OVER: Vietnamese; Speak English less than very well (Estimate)
  9. Universe: POPULATION 5 YEARS AND OVER: Tagalog; Speak English less than very well (Estimate)
- L. **If there are any counties in your plan’s service area that were not in the 1-year ACS estimate dataset, called `dc_acs_2009_1yr_g00_data1`, then repeat the above steps, with the following exception: Instead of clicking on the 2009 American Community Survey 1-Year Estimates in Step 2.1.E., click on the **2007-2009 American Community Survey 3-Year Estimates**. Then proceed with the rest of the steps above.**
- M. **If there are any counties in your plan’s service area that were not in the 1-year ACS estimate OR the 3-year ACS estimate, then you will need to use data from the **2005-2009 5-year ACS estimate** to obtain data for the missing counties.**

**Note on Missing Counties:**

If you are obtaining data from multiple datasets, you will have to merge the datasets before performing the calculation steps in the next section. When you do this, be careful to only add data for the counties that are missing in the more recent datasets. (For instance, 3-Year ACS data would be added to 1-Year ACS data, without replacing any data for the counties that are in the 1-Year ACS set.)

**Step 2.2: Calculating the 5% Less Than Very Well (LTVW) Population Percentages**

- A. Note that the quality of English spoken at home variables (B Series) need to be aggregated to the appropriate categories based on the Appendix B crosswalk.
- B. Once you have obtained the population and language data for all states and/or counties in your plan’s service area, make sure that you have merged all datasets (ACS 1-Year, ACS 3-Year, and/or ACS 5-Year, if applicable).
- C. Using the variable “Total Population 5 Years and Over” (see Obtaining Data step 2.1.K.), sum this variable across all states and/or counties in your plan’s service area to create a **Grand Total Population 5 Years and Over** for your service area.

- D. For each language other than English (see Obtaining Data steps 2.1B.K), sum the number of individuals who speak that language and English less than very well (e.g., well, not well, and not at all) in all states and/or counties in your plan's service area to create a **Grand Total of Individuals Who Speak a Given Language and English Less Than Very Well** for your service area.
- E. Divide the **Grand Total of Individuals Who Speak a Given Language and English Less Than Very Well** in the service area by the **Grand Total Population 5 Years and Over** in the service area. For every language for which this number is 5% or greater, the plan must provide translated marketing materials.

## Appendix B: Differences in Language Variables between 2000 Census and ACS

This table described how to combine the language categories in the 2000 Decennial census so that they match the categories in the American Community Surveys.

Language Category in 2000 Census	Language Category in ACS
English	English
Spanish or Spanish Creole	Spanish
French (incl. Patois; Cajun) French Creole	French
German Yiddish Other West Germanic Languages	German
Russian Polish Serbo-Croatian Other Slavic Languages	Slavic
Italian Portuguese or Portuguese Creole Scandinavian Languages Greek Armenian Persian Gujarathi Hindi Urdu Other Indic Languages Other Indo-European Languages	Other Indo-European
Korean	Korean
Chinese	Chinese
Vietnamese	Vietnamese
Tagalog	Tagalog
Japanese Mon-Khmer; Cambodian Miao; Hmong Thai Laotian Other Asian Languages Other Pacific Island Languages	Other Asian Pacific Island
Navajo Other Native North American Languages Hungarian Arabic Hebrew African Languages Other and unspecified languages	Other